

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 21, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1660

Introduced by Assembly Member Campos

February 14, 2012

An act to add Chapter 5 (commencing with Section 1706) to Part 6 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1660, as amended, Campos. Representation of minors: permits.

Existing law requires that persons or corporations that act as talent agencies pay a filing fee and obtain a license from the Labor Commissioner.

This bill would prohibit a person, except a person licensed as a talent agent and other specified persons, from representing or providing specified services to artists who are minors, under 18 years of age, unless he or she submits to the Labor Commissioner an application for a Child Performer Services Permit and receives that permit. The bill would require the Labor Commissioner to set forth a filing fee to be paid by the applicant to the commissioner at the time the application for the permit is filed. Upon receiving the application and filing fee and determining from the below-described information provided by the Department of Justice that the applicant is not required to register as a sex offender, as specified, the commissioner shall issue a Child

Performer Services Permit to the applicant. The bill would require the applicant to renew the permit on a biennial basis, as specified.

The bill would create the Child Performer Services Permit Fund into which would be deposited the above-described filing fee. Upon appropriation by the Legislature, the proceeds from the fund would be used to pay the costs of the above-described permit program. *The bill would authorize the Labor Commissioner, until June 30, 2013, on a one-time basis, to borrow and repay up to \$250,000 from the Labor Enforcement and Compliance Fund to the Child Performer Services Permit Fund for startup costs related to the above-described permit program.*

This bill would also require each person required to submit the above-described application to ~~submit to the commissioner his or her fingerprints~~ *provide electronic fingerprinted images* and related information required by the Department of Justice, as specified. The bill would require the Labor Commissioner to electronically submit to the Department of Justice fingerprint images and the related information. The bill would require the Department of Justice to use the fingerprint images and information to provide the Labor Commissioner with both state and federal criminal history information, as specified.

The bill would require the Labor Commissioner to maintain a list of all persons holding a valid Child Performer Services Permit issued under the above-described provisions and make this list publicly available on its Internet Web site.

The bill would prohibit a person, including a person who is licensed as a talent agent and any other person who is exempt from the above-described permit requirement, who is required to register as a sex offender, as specified, from being permitted to represent or provide specified services to artists who are minors.

The bill would provide for penalties for persons who violate its provisions, enforceable by persons injured, and by specified public entities authorized by the bill to seek remedies that include misdemeanor criminal penalties. It would provide that its provisions do not excuse compliance with other laws, and that its remedies are not exclusive.

By providing for criminal penalties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5 (commencing with Section 1706) is
2 added to Part 6 of Division 2 of the Labor Code, to read:

3
4 CHAPTER 5. CHILD PERFORMER SERVICES PERMITS
5

6 1706. (a) (1) No person shall represent or provide specified
7 services to any artist who is a minor, under 18 years of age, without
8 first submitting an application to the Labor Commissioner for a
9 Child Performer Services Permit and receiving that permit.

10 (2) The Labor Commissioner shall set forth a filing fee, to be
11 paid by the applicant to the commissioner at the time the
12 application is filed, in an amount sufficient to reimburse the Labor
13 Commissioner for the costs of the permit program, ~~but not to~~
14 ~~exceed fifty dollars (\$50).~~ This amount shall be in addition to any
15 charge imposed by the Labor Commissioner pursuant to paragraph
16 (3) of subdivision (c).

17 (3) (A) The Labor Commissioner shall issue a Child Performer
18 Services Permit to the applicant after he or she has received the
19 application and filing fee and determined from information
20 provided by the Department of Justice that the person is not
21 required to register pursuant to Sections 290 to 290.006, inclusive,
22 of the Penal Code.

23 (B) After receiving his or her first Child Performer Services
24 Permit, a person shall on a biennial basis renew his or her
25 application by resubmitting his or her name and a new filing fee
26 to the Labor Commissioner in the amount set forth by the Labor
27 Commissioner pursuant to paragraph (2). The Labor Commissioner
28 shall issue a renewed permit to the person after receiving his or
29 her application and filing fee and determining from the subsequent
30 arrest notification provided by the Department of Justice pursuant
31 to subparagraph (D) of paragraph (2) of subdivision (c) that the
32 person is not required to register pursuant to Sections 290 to
33 290.006, inclusive, of the Penal Code. A person shall not be

1 required to resubmit his or her fingerprints in order to renew his
2 or her permit.

3 (b) Except for subdivision (f) and Sections 1706.1 to 1706.5,
4 inclusive, when applied to a violation of subdivision (f), this
5 chapter does not apply to the following:

6 (1) A person licensed as a talent agent as specified in Chapter
7 4 (commencing with Section 1700), or operating under the license
8 of a talent agent.

9 (2) A studio teacher certified by the Labor Commissioner as
10 defined in Section 11755 of Title 8 of the California Code of
11 Regulations.

12 (3) A person whose contact with minor children is restricted to
13 locations where, either by law or regulation, the minor must be
14 accompanied at all times by a parent or guardian, and the parent
15 or guardian must be within sight or sound of the minor.

16 (4) A person who has only incidental and occasional contact
17 with minor children, unless the person works directly with minor
18 children, has supervision or disciplinary power over minor children,
19 or receives a fee.

20 (c) (1) Each person required to submit an application to the
21 Labor Commissioner pursuant to paragraph (1) of subdivision (a)
22 shall also submit to the Labor Commissioner his or her fingerprints
23 *provide to the Department of Justice electronic fingerprinted*
24 *images* and related information required by the ~~Department of~~
25 ~~Justice department~~ of all permit applicants, for the purposes of
26 obtaining information as to the existence and content of a record
27 of state or federal arrests and convictions, including arrests for
28 which the Department of Justice establishes that the person is free
29 on bail or on his or her recognizance pending trial or appeal.

30 (2) (A) ~~The Labor Commissioner shall electronically submit~~
31 ~~to the Department of Justice fingerprint images and the related~~
32 ~~information described in paragraph (1):~~

33 ~~(B)~~ When received, the Department of Justice shall forward the
34 fingerprint images and related information described in paragraph
35 (1) to the Federal Bureau of Investigation and request a federal
36 summary for criminal history information.

37 ~~(C)~~

38 (B) (i) The Department of Justice shall review the information
39 returned from the Federal Bureau of Investigation and compile
40 and disseminate a response to the Labor Commissioner.

1 (ii) The Department of Justice's response shall provide both
2 state and federal criminal history information pursuant to paragraph
3 (1) of subdivision (p) of Section 11105 of the Penal Code.

4 ~~(D)~~

5 (C) The Labor Commissioner shall request from the Department
6 of Justice subsequent arrest notification service, as provided
7 pursuant to Section 11105.2 of the Penal Code, for each person
8 who submitted fingerprint images and the related information
9 pursuant to paragraph (1).

10 (3) (A) The Department of Justice shall charge the Labor
11 Commissioner a fee sufficient to cover the cost of processing the
12 request described in paragraph (2).

13 (B) In addition to the filing fee paid by the applicant pursuant
14 to subdivision (a) to reimburse the Labor Commissioner for the
15 costs of the permit program, the Labor Commissioner may charge
16 the applicant a fee sufficient to cover the costs of the fee imposed
17 by the Department of Justice pursuant to subparagraph (A). The
18 amount of the fee imposed pursuant to this subparagraph shall be
19 forwarded by the Labor Commissioner to the Department of Justice
20 with the applicant's name, fingerprints, and other information
21 described in paragraph (1). This fee shall be available to the
22 Department of Justice for the purposes described in subparagraph
23 (A), upon appropriation by the Legislature.

24 (4) Upon receipt of information from the Department of Justice
25 provided pursuant to subparagraphs (C) and (D) of paragraph (2),
26 the commissioner shall timely cause a copy of the information to
27 be sent to the person who has submitted the application, and shall
28 keep a copy of the information and application on file.

29 (d) The Labor Commissioner shall maintain a list of all persons
30 holding a valid Child Performer Services Permit issued under this
31 chapter and make this list publicly available on its Internet Web
32 site.

33 (e) Upon receipt of a valid Child Performer Services Permit,
34 the recipient shall post the permit in a conspicuous place in his or
35 her place of business.

36 (f) No person, including a person described in subdivision (b),
37 who is required to register pursuant to Sections 290 to 290.006,
38 inclusive, of the Penal Code may represent or provide specified
39 services to any artist who is a minor.

(g) For purposes of this section, the following terms have the following meanings:

(1) “Artist” means a person who is or seeks to become an actor, actress, model, extra, radio artist, musical artist, musical organization, director, musical director, writer, cinematographer, composer, lyricist, arranger, or other person rendering professional services in motion picture, theatrical, radio, television, Internet, print media, or other entertainment enterprises or technologies.

(2) Except as used in the context of a fee an applicant is required to pay with his or her application, “fee” means any money or other valuable consideration paid or promised to be paid by an artist, by an individual on behalf of an artist, or by a corporation formed on behalf of an artist for services rendered or to be rendered by any person conducting the business of representing artists.

(3) “Person” means any individual, company, society, firm, partnership, association, corporation, limited liability company, trust, or other organization.

(4) To “represent or provide specified services to” means to provide, offer to provide, or advertise or represent as providing, for a fee one or more of the following services:

(A) Photography for use as an artist, including, but not limited to, still photography, digital photography, and video and film services.

(B) Managing or directing the development or advancement of the artist’s career as an artist.

(C) Career counseling, career consulting, vocational guidance, aptitude testing, evaluation, or planning, in each case relating to the preparation of the artist for employment as an artist.

(D) Public relations services or publicity, or both, including arranging personal appearances, developing and distributing press packets, managing fan mail, designing and maintaining Internet Web sites, and consulting on media relations.

(E) Instruction, evaluation, lessons, coaching, seminars, workshops, or similar training as an artist, including, but not limited to, acting, singing, dance, voice, or similar instruction services.

(F) A camp for artists, which includes, but is not limited to, a day camp or overnight camp in which any portion of the camp includes any services described in subparagraphs (A) to (E), inclusive.

(h) (1) The Labor Commissioner shall deposit all filing fees described in subdivision (a) into the Child Performer Services Permit Fund, which is hereby created in the State Treasury. The funds deposited in the Child Performer Services Permit Fund shall be available to the Labor Commissioner, upon appropriation by the Legislature, to pay for the costs of administration of the Child Performer Services Permit program *and to repay any loan from the Labor Enforcement and Compliance Fund made pursuant to paragraph (2).*

(2) *Until June 30, 2013, the Labor Commissioner may, on a one-time basis, borrow up to two hundred fifty thousand dollars (\$250,000) from the Labor Enforcement and Compliance Fund, as established by subdivision (e) of Section 62.5, for deposit in the Child Performer Services Permit Fund to cover the one-time startup costs related to the Child Performer Services Permit program. The loan shall be repaid to the Labor Enforcement and Compliance Fund, or any successor fund, as soon as sufficient funds exist in the Child Performer Services Permit Fund to repay the loan without compromising the operations of the permit program.*

1706.1. A person who willfully violates any provision of this chapter is guilty of a misdemeanor. Each violation is punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

1706.2. The Attorney General, any district attorney, or any city attorney may institute an action for a violation of this chapter, including an action to restrain and enjoin a violation.

1706.3. A person who is injured ~~by~~ *as a result of* any violation of this chapter *committed by a person required to obtain a permit pursuant to paragraph (1) of subdivision (a) of Section 1706* may bring an action to recover damages or to restrain and enjoin a violation, or both. The amount of damages that may be awarded for a violation of this chapter is up to three times the damages actually incurred. A final judgment may be satisfied from the bond or deposit maintained by the Labor Commissioner, if any. A person bringing an action under this chapter who prevails shall be awarded reasonable attorney's fees and costs. The court may award punitive damages in addition to any other amounts if it determines, by clear

1 and convincing evidence, that the violation of this chapter was
2 willful.

3 1706.4. The provisions of this chapter are not exclusive and
4 do not relieve any person subject to this chapter from the duty to
5 comply with all other laws.

6 1706.5. The remedies provided in this chapter are not exclusive
7 and are in addition to any other remedies or procedures provided
8 in any other law.

9 SEC. 2. If any provision of this act or the application thereof
10 to any person or circumstances is held to be unconstitutional in a
11 reported opinion of a court of competent jurisdiction, the remainder
12 of the act and the application of that provision to other persons
13 and circumstances shall not be affected.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.